

# **EXHIBIT E**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CHARLES BOYLE, )  
Plaintiff, )  
-vs- ) No. 09 C 1080  
UNIVERSITY OF CHICAGO )  
POLICE OFFICER LARRY )  
TORRES, et al., )  
Defendants. )

The deposition of MICHAEL KWIATKOWSKI, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before ATHANASIA MOURGELAS, a notary public within and for the County of Cook and State of Illinois, at 222 North LaSalle Street, Suite 300, Illinois, on the 10th day of November, 2009, at the hour of 10:09 o'clock a.m.

Reported by: Athanasia Mourgelas  
License No. 084-004329

ORIGINAL

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## 1 APPEARANCES:

2 ED FOX & ASSOCIATES, by  
3 MR. JONATHAN R. KSIAZEK,  
4 300 West Adams Street, Suite 330,  
5 Chicago, Illinois 60606,  
6 (312) 345-8877,  
7 Representing the Plaintiff;

8 HINSHAW & CULBERTSON, by  
9 MR. STEVE M. PUISZIS,  
10 222 North LaSalle Street, Suite 300,  
11 Chicago, Illinois 60601,  
12 (312) 704-3000,  
13 Representing the Defendant,  
14 University of Chicago Police  
15 Officers;

16 ASSISTANT CORPORATION COUNSEL, by  
17 MS. HELEN C. GIBBONS,  
18 30 North LaSalle Street, Room 900,  
19 Chicago, Illinois 60602,  
20 (312) 744-3982,  
21 Representing the Defendant,  
22 City of Chicago.

1 (Whereupon, the deposition  
2 began at 10:09 o'clock a.m.)  
3 (Witness sworn.)  
4 MR. KSIAZEK: Can you please state your name  
5 spelling your last name for the record.  
6 THE WITNESS: Michael Kwiatkowski,  
7 K-W-I-A-T-K-O-W-S-K-I.  
8 MR. KSIAZEK: Officer Kwiatkowski, is that  
9 how you say it; right?  
10 THE WITNESS: Yes, sir.  
11 MR. KSIAZEK: Have you ever had your  
12 deposition taken before?  
13 THE WITNESS: No.  
14 MR. KSIAZEK: So this is your first time  
15 having your deposition taken of you?  
16 THE WITNESS: Yes.  
17 MR. KSIAZEK: I'm going to give you some  
18 ground rules, basically explain what we're doing  
19 here and what's going to happen. First of all,  
20 I'm just going to ask you some questions, and  
21 ask that you answer them truthfully and to the  
22 best of your knowledge. Is that okay?  
23 THE WITNESS: Yes.  
24 MR. KSIAZEK: And when you're answering

2

4

1 (Pages 1 to 4)

1 those questions, I just ask that you answer them  
 2 verbally, so out loud with a yes or no or  
 3 whatever answer you're going to give and there  
 4 might be times when you say uh-uh or uh-huh or  
 5 you shake your head, and then we'll just remind  
 6 you to answer out loud. Is that okay?

7 THE WITNESS: Yes.

8 MR. KSIAZEK: Okay. And when I'm asking my  
 9 questions, I'll do my best to not try and talk  
 10 over when you're giving your answers and I just  
 11 ask that you do the same for me just so that we  
 12 can have a clear record for the court reporter.  
 13 Okay?

14 THE WITNESS: Yes.

15 MR. KSIAZEK: And you understand that you  
 16 are under oath today?

17 THE WITNESS: Yes.

18 MR. KSIAZEK: And is there anything  
 19 preventing you from testifying truthfully today?

20 THE WITNESS: No.

21

22

23

24

1 A. Approximately six and a half years.  
 2 Q. So you started in approximately 2002,  
 3 middle of 2002?  
 4 A. 2003.  
 5 Q. Do you know when you started in 2003?  
 6 A. June of 2003.  
 7 Q. Have you worked for any other police  
 8 departments prior to working for the University  
 9 of Chicago Police Department?  
 10 A. No.  
 11 Q. So your first job was with the  
 12 University of Chicago?  
 13 A. Yes.  
 14 Q. What was your rank when you first  
 15 started in 2003 with the University of Chicago  
 16 Police Department?  
 17 A. Patrolman.  
 18 Q. And were you a patrolman on October  
 19 18th, 2008 with the University of Chicago?  
 20 A. Yes.  
 21 Q. When did you become a sergeant?  
 22 A. August of 2009.  
 23 Q. Have you ever served in the military?  
 24 A. No.

5

7

1 MICHAEL KWIATKOWSKI,  
 2 having been first duly sworn, was examined and  
 3 testified as follows:

4 EXAMINATION

5 BY MR. KSIAZEK:

6 Q. Okay. What is your educational  
 7 background?

8 A. I achieved a bachelor's in criminal  
 9 justice from Michigan State University.

10 Q. When did you obtain that bachelor's  
 11 degree?

12 A. 1999.

13 Q. Upon graduating from Michigan State  
 14 University, what jobs did you hold?

15 A. I was a supervisor for RPS Airborne  
 16 Express and a manager for USF Distribution.

17 Q. USF Distribution you said, sir?

18 A. USF.

19 Q. And what is your current position?

20 A. I'm a sergeant.

21 Q. Where do you work?

22 A. The University of Chicago Police.

23 Q. How long have you worked for University  
 24 of Chicago Police Department?

1 Q. How tall are you, sir?  
 2 A. Approximately 6', 1".  
 3 Q. And how much do you weigh?  
 4 A. Between 275 and 280.  
 5 Q. How much did you weigh in October of  
 6 2008?  
 7 A. Approximately the same.  
 8 Q. How old are you?  
 9 A. 32.  
 10 Q. Were you assigned to a beat on October  
 11 18th of 2008?  
 12 A. Yes.  
 13 Q. What beat was that?  
 14 A. 152.  
 15 Q. What are the boundaries of Beat 152 in  
 16 October of 2008?  
 17 A. There's not really a set boundary.  
 18 Q. Okay. So what is your assignment with  
 19 Beat 152?  
 20 A. Surveillance. At that time it was  
 21 surveillance.  
 22 Q. How long was your assignment on Beat  
 23 152 surveillance?  
 24 A. From – can you explain the question,

6

8

2 (Pages 5 to 8)

1 are you asking --  
 2 Q. Sure. How long did you serve on Beat  
 3 152? You said on October 2002 you were working  
 4 Beat 152?  
 5 A. Yeah.  
 6 Q. How long were you working on Beat 152?  
 7 A. The hours?  
 8 Q. The months, years?  
 9 MR. PUISZIS: How many days had you been  
 10 working?  
 11 THE WITNESS: I would say approximately six  
 12 months.  
 13 BY MR. KSIAZEK:  
 14 Q. You had been working six months prior  
 15 to October of 2008?  
 16 A. Correct.  
 17 Q. And how many months did you work after  
 18 October of 2008?  
 19 A. All the way until July of '09.  
 20 Q. Now, when you say your assignment was  
 21 surveillance, what do you mean by that?  
 22 A. Do you mean the capacity?  
 23 Q. What were you surveying? What were you  
 24 investigating?

1 A. Patrol and maintaining safety and  
 2 security of the campus and faculty and staff  
 3 students of the University.  
 4 Q. And did you have a focus more on this  
 5 robbery pattern that you spoke of earlier or was  
 6 it just more general patrol?  
 7 A. Our focus was the robbery but we were  
 8 also doing general patrol and maintaining campus  
 9 safety and security.  
 10 Q. Were you working with a partner?  
 11 A. No.  
 12 Q. So --  
 13 MR. PUISZIS: Let him finish his question  
 14 before you answer.  
 15 BY MR. KSIAZEK:  
 16 Q. And did you have your own squad car?  
 17 A. I had my own vehicle.  
 18 Q. Was it a marked car or was it an  
 19 unmarked car?  
 20 A. Unmarked.  
 21 Q. And what beat are you currently  
 22 assigned to?  
 23 A. The beat number is 170.  
 24 Q. What does Beat 170, what is that

9

11

1 A. Within the University area of authority  
 2 at that time I believe I was working a robbery  
 3 pattern, so I was in areas where we would have  
 4 incidents of robberies.  
 5 Q. Okay. Was there a specific part of the  
 6 campus that you were investigating more than  
 7 others?  
 8 A. At that time I believe it was between  
 9 53rd to basically 63rd Street.  
 10 Q. Do you know what the boundaries were --  
 11 you said 53rd and 63rd Street, were there  
 12 another cross section boundaries where you were  
 13 investigating streets?  
 14 A. Our campus -- our area of authority we  
 15 go from Cottage Grove back east until Stony  
 16 Island or the lake depending on the area you're  
 17 in, Stony Island or Lake Shore depending on the  
 18 area.  
 19 Q. So you were investigating 53rd Street  
 20 to 63rd Street from Cottage Grove to Stony  
 21 Island approximately?  
 22 A. I was working in those areas.  
 23 Q. Okay. And what were your day-to-day  
 24 duties be in October of 2008?

1 assignment?  
 2 A. Training.  
 3 Q. So where do you -- do you currently  
 4 train all the new officers?  
 5 A. We schedule training.  
 6 Q. And what is your role in the training?  
 7 A. And I provide training on various  
 8 subjects.  
 9 Q. What subjects do you provide training  
 10 on?  
 11 A. We do our annual firearms  
 12 qualification.  
 13 Q. Anything else?  
 14 A. Mobile data terminals and use.  
 15 Q. Anything else besides firearms  
 16 qualifications and mobile data terminals and  
 17 use?  
 18 A. Report writing.  
 19 Q. Anything else besides these three  
 20 training class that you spoke of?  
 21 A. Currently, no.  
 22 Q. Okay. So just to recap, you train  
 23 officers in firearms qualifications, mobile data  
 24 terminals and use and how to write a report; is

10

12

3 (Pages 9 to 12)

1 that correct?  
 2 A. The report writing, correct.  
 3 Q. And do you work out of the Chicago  
 4 Police Department -- University of Chicago  
 5 Police Department headquarters?  
 6 A. No.  
 7 Q. When you're not on patrol?  
 8 A. Correct.  
 9 Q. And what is your shift currently?  
 10 A. Days.  
 11 Q. Okay. So what are your hours during  
 12 the days?  
 13 A. 06:30 to 14:30 hours.  
 14 Q. In October of 2008 when you were  
 15 working Beat 152, what were your hours then?  
 16 A. 21:00 to 05:00.  
 17 Q. Did you have the occasion to be at 1435  
 18 53rd Street on October 13th, 2008?  
 19 A. What was the address?  
 20 Q. 1435 East 53rd Street?  
 21 A. I don't believe I was at that address.  
 22 Q. Were you on -- let's put it this way,  
 23 did you get a dispatch telling you that there  
 24 was a 10-1 on 53rd Street on October 18th, 2008?

1 miles or blocks it is?  
 2 A. Approximately eight to nine blocks.  
 3 Q. And what were you doing when you got  
 4 this dispatch?  
 5 A. Patrol.  
 6 Q. So you got this dispatch and you headed  
 7 towards 53rd Street?  
 8 A. Yes.  
 9 Q. Do you remember what route you took to  
 10 get to 53rd Street?  
 11 A. I believe I went north on Blackstone.  
 12 Q. And then you turned onto 53rd from  
 13 Blackstone?  
 14 A. I would have turned westbound onto  
 15 53rd.  
 16 Q. Okay. As you turned westbound onto  
 17 53rd Street, what did you see?  
 18 A. Could you be more specific with the  
 19 question?  
 20 Q. I'm just asking you as you're turning  
 21 onto 53rd Street, what, if anything, did you see  
 22 on 53rd Street?  
 23 A. I observed several University officers  
 24 that have responded to a call trying to place a

13

15

1 A. Yes.  
 2 Q. Do you recall what the dispatch said  
 3 exactly?  
 4 A. No, I do not recall the exact details.  
 5 Q. Where were you when you got this  
 6 dispatch?  
 7 A. Approximately 60th and Drexel.  
 8 Q. Do you know what time you got this  
 9 dispatch? Do you know what time you got  
 10 dispatched?  
 11 A. Approximately 02:30 to 02:40 hours.  
 12 Q. And what did you do once you received  
 13 this dispatch?  
 14 A. I started heading towards the location  
 15 of the dispatch.  
 16 Q. How far did it take you to arrive at  
 17 53rd Street from 60th and Drexel?  
 18 A. Could you repeat that question?  
 19 Q. Sure. How long did it take you to  
 20 arrive at 53rd Street from where you were at  
 21 60th and Drexel?  
 22 A. Approximately one to two minutes. I  
 23 don't recall exactly.  
 24 Q. Do you know how far away, how many

1 subject into custody.  
 2 Q. Okay. And at some point did you park  
 3 your vehicle?  
 4 A. Yes.  
 5 Q. And where did you park your vehicle?  
 6 A. Approximately I was -- my vehicle was  
 7 -- it was west of 53rd Street -- it was west of  
 8 Blackstone on 53rd Street.  
 9 Q. Do you know how far you traveled down  
 10 53rd Street before you parked your vehicle?  
 11 A. I don't recall exactly. It could have  
 12 been approximately a quarter of a block. I  
 13 don't recall exactly.  
 14 Q. Okay. After you parked your vehicle,  
 15 what did you do?  
 16 A. I exited my vehicle.  
 17 Q. And as you exited your vehicle, what  
 18 did you see at that point?  
 19 A. Several officers trying to place the  
 20 subject into custody.  
 21 Q. Can you describe how the officers --  
 22 first of all, how many officers were there?  
 23 A. I would say approximately five at that  
 24 point.

14

16

4 (Pages 13 to 16)

1 Q. Do you know if they were all University  
 2 of Chicago officers or were there some Chicago  
 3 Police Officers there?  
 4 A. They were all University of Chicago.  
 5 Q. Did you recognize any of the officers  
 6 that were attempting to put the subject into  
 7 custody?  
 8 A. Yes.  
 9 Q. Who did you recognize?  
 10 A. Officer Galarza, Torres, Gillespie,  
 11 Officer Moore, and there – that's all I could  
 12 recall. There may have been a few more. That's  
 13 all I can recall.  
 14 Q. Okay. So how were Officers Galarza,  
 15 Torres, Gillespie and Moore attempting to place  
 16 the subject into custody?  
 17 A. They were attempting to place him into  
 18 handcuffs.  
 19 Q. Where was Officer Galarza in relation  
 20 to the subject?  
 21 A. When I arrived, I believe Officer  
 22 Galarza was by the subject's arms.  
 23 Q. And did you later learn that the  
 24 subject at the scene that night was Charles

1 Mr. Boyle was doing while he was on the ground?  
 2 A. Yes.  
 3 Q. What was he doing?  
 4 A. He was kicking and struggling. He was  
 5 kind of wiggling his arms trying to break his  
 6 arms free.  
 7 Q. Okay. Where was Officer Moore in  
 8 relation to Mr. Boyle when Mr. Boyle was on the  
 9 ground?  
 10 A. I do not recall.  
 11 Q. And you said that Mr. Boyle was kicking  
 12 and struggling, do you know which officer was  
 13 trying to actually put the handcuffs on  
 14 Mr. Boyle?  
 15 A. I believe it was Officer Galarza, and I  
 16 went to assist.  
 17 Q. When you said Mr. Boyle was kicking and  
 18 struggling, was he kicking violently?  
 19 MR. PUISZIS: Objection to the  
 20 characterization. I don't know what you mean by  
 21 violently. When a person can look at a  
 22 situation and say it's violent, someone else  
 23 could say it was not so violent. So subject to  
 24 the objection, you can answer the question.

17

19

1 Boyle?  
 2 A. Yes.  
 3 Q. Where was Officer Torres in relation to  
 4 Mr. Boyle?  
 5 A. I don't recall.  
 6 Q. When you say Officer Galarza was by  
 7 Mr. Boyle's arms, was he on the left side or the  
 8 right side?  
 9 A. When – I don't recall exactly when I  
 10 arrived on the scene what side. I believe he  
 11 was more – yeah, I don't recall.  
 12 Q. Where was Officer Gillespie to  
 13 Mr. Boyle?  
 14 A. Officer Gillespie was by Mr. Boyle's  
 15 legs.  
 16 Q. Was Mr. Boyle standing at this point?  
 17 A. No.  
 18 Q. Where was Mr. Boyle?  
 19 A. Mr. Boyle was facedown on the ground.  
 20 Q. Was he laying on the ground with his  
 21 belly on the ground or was his back on the  
 22 ground?  
 23 A. His stomach was on the ground.  
 24 Q. And did you notice anything that

1 BY MR. KSIAZEK:  
 2 Q. Was he kicking violently?  
 3 A. I personally would characterize it as  
 4 violently, yes.  
 5 Q. And why is that?  
 6 A. The amount of force being exerted.  
 7 Q. Did you – you actually saw Mr. Boyle's  
 8 legs go up in the air?  
 9 A. I believe so.  
 10 Q. Do you know how high his legs went up  
 11 in the air?  
 12 A. No.  
 13 Q. Was it – were both legs going up in  
 14 the air?  
 15 A. I don't recall.  
 16 Q. You said you saw Mr. – I'm sorry,  
 17 Officer Gillespie by Mr. Boyle's legs, did you  
 18 see Mr. Boyle actually kick Officer Gillespie?  
 19 A. No.  
 20 Q. Did you actually see Mr. Boyle kick in  
 21 Officer Gillespie's direction?  
 22 A. Yes.  
 23 Q. Do you know if Officer Gillespie was  
 24 wearing his glasses when you saw him that night?

18

20

5 (Pages 17 to 20)

1 A. Yes.  
 2 Q. And when you arrived on the scene and  
 3 as you say Mr. Boyle was kicking in Officer  
 4 Gillespie's direction, when you saw this, was  
 5 Officer Gillespie wearing his glasses at that  
 6 point?  
 7 A. I don't recall. I do know that after  
 8 the completion of the call, we were looking for  
 9 Officer Gillespie's glasses.  
 10 Q. Do you know if he ever found his  
 11 glasses?  
 12 A. I believe he did. I believe they were  
 13 in several pieces.  
 14 Q. Did you ever see the glasses yourself?  
 15 A. No, I don't recall.  
 16 Q. Do you know who found Officer  
 17 Gillespie's glasses?  
 18 A. No.  
 19 Q. Okay. While -- you said you moved over  
 20 to Mr. Boyle to attempt to place -- assist in  
 21 placing him in handcuffs; right?  
 22 A. Yes.  
 23 Q. So what happened as you went over to  
 24 assist placing Mr. Boyle in handcuffs?

21

1 resisting.  
 2 Q. How many times did you hear Officer  
 3 Galarza say that?  
 4 A. I don't recall the exact amount of  
 5 times.  
 6 Q. But it was more than once?  
 7 A. Yes.  
 8 Q. Did Mr. Boyle say anything in response?  
 9 A. Not that I can recall.  
 10 Q. When you first arrived on the scene and  
 11 exited your vehicle, did you see any witnesses  
 12 at the scene?  
 13 A. I believe there were some people on the  
 14 street, but I don't know exactly who or how  
 15 many.  
 16 Q. And do you know how many police cars  
 17 were on the scene when you arrived?  
 18 A. I don't recall exactly. I know I was  
 19 the fourth or fifth assist unit to arrive. Like  
 20 I said, my primary focus was on officer safety,  
 21 so I wasn't really paying attention to how many  
 22 squad cars were --  
 23 Q. Sure. Did you see a silver Chrysler on  
 24 the scene that night?

23

1 A. We stated to stop to -- to Mr. Boyle to  
 2 stop resisting arrest, and I helped maintain  
 3 control of Mr. Boyle's arms when the handcuffs  
 4 were placed on him.  
 5 Q. So did you actually -- were you the  
 6 officer who actually put the handcuffs on  
 7 Mr. Boyle?  
 8 A. No.  
 9 Q. Do you know which officer actually  
 10 physically placed the handcuffs on Mr. Boyle?  
 11 A. No, I do not recall. My focus was  
 12 maintaining control of his arms so nobody -- for  
 13 officer safety and nobody would get hit or  
 14 struck.  
 15 Q. By the way, when you first arrived on  
 16 the scene and you exited your vehicle, did you  
 17 hear any conversation between -- did you hear  
 18 Mr. Boyle say anything?  
 19 A. No.  
 20 Q. And did you hear -- right after you  
 21 exited your vehicle, did you hear any of the  
 22 four University of Chicago officers say  
 23 anything?  
 24 A. Yes. I heard Officer Galarza say stop

22

1 A. Yes.  
 2 Q. Where was that silver Chrysler located?  
 3 A. That would -- it was on 53rd facing  
 4 westbound.  
 5 Q. Where did -- where was Mr. Boyle laying  
 6 or -- or how far away from the silver Chrysler  
 7 was Mr. Boyle laying on the ground, if you can  
 8 recall?  
 9 A. I don't recall.  
 10 Q. Did you -- how far away was Mr. Boyle  
 11 laying from the closest University of Chicago  
 12 Police patrol car?  
 13 A. I couldn't recall. I don't recall.  
 14 Q. Do you know if it was a few feet or was  
 15 it more than that?  
 16 A. I couldn't say. I couldn't give you an  
 17 exact distance or recall.  
 18 Q. Did you hear anyone -- once you first  
 19 got out of your vehicle, did you hear any of the  
 20 witnesses that you said that were on the scene?  
 21 A. No.  
 22 Q. Did you hear -- you didn't hear  
 23 anything from them?  
 24 A. No.

24

6 (Pages 21 to 24)

1 Q. You didn't hear any conversations  
 2 between them?

3 A. No.

4 Q. Did you notice if anyone was located  
 5 inside of the silver Chrysler?

6 A. No, I did not.

7 MR. PUISZIS: You didn't notice or you  
 8 didn't know?

9 THE WITNESS: I didn't know -- I don't  
 10 recall seeing anybody inside of it.

11 MR. PUISZIS: Okay.

12 BY MR. KSIAZEK:

13 Q. So after -- how long approximately did  
 14 it take from the point when you first arrived on  
 15 the scene and exited your vehicle to when  
 16 Mr. Boyle was in handcuffs?

17 A. A few minutes. Approximately a few  
 18 minutes.

19 Q. Do you know -- well, did you see any of  
 20 the four officers that you named, Officer  
 21 Galarza, Moore, Torres and Gillespie, did you  
 22 see any of them strike Mr. Boyle?

23 A. No.

24 Q. Did you see Mr. Boyle strike any of

1 several officers there. I know as I stated  
 2 earlier Gillespie was there, Galarza was there  
 3 and Moore and Torres was there. I don't recall  
 4 anybody's specific location. I was focused  
 5 maintaining control of the subject's arms.

6 Q. Okay. Did you -- at some point,  
 7 though, Mr. Boyle stood up from the ground?

8 A. Yes.

9 Q. And that was by one of the officers who  
 10 was there, either Moore or Torres or Galarza or  
 11 Gillespie?

12 A. Yeah, I don't recall exactly who  
 13 assisted him up from the ground.

14 Q. Did Mr. Boyle say anything when he was  
 15 -- once he stood up from the ground?

16 A. Not that I can recall.

17 Q. Did you hear any of the officers say  
 18 anything when Mr. Boyle stood up from the  
 19 ground?

20 A. Not that I can recall.

21 Q. So what happened if you can recall once  
 22 Mr. Boyle was stood up?

23 A. I was not on the scene for -- after he  
 24 was placed into custody, I wasn't on the scene

25

27

1 them?

2 A. No.

3 Q. You just saw them attempting to put him  
 4 into handcuffs, the four officers?

5 A. Correct.

6 Q. What happened after Mr. Boyle was  
 7 placed into handcuffs?

8 A. I don't recall. Could you be more  
 9 specific with your question?

10 Q. Well, you said he was on the ground,  
 11 did someone pull him up from the ground,  
 12 Mr. Boyle?

13 A. Yes, I believe he was -- I don't know  
 14 if he was put into a squad car. I'm not sure  
 15 exactly what happened afterwards.

16 Q. You were -- when Mr. Boyle was actually  
 17 placed into handcuffs, were you standing over  
 18 him?

19 A. I believe I was on his -- more toward  
 20 his right side.

21 Q. And do you know what, if any,  
 22 University of Chicago officers were located  
 23 around you on Mr. Boyle's right side?

24 A. I don't recall. I knew there were

1 for much longer. I know the Chicago Police  
 2 Department did arrive on the scene, and I  
 3 believe the -- he was -- I'm not sure exactly if  
 4 he was turned over to them or what happened  
 5 next.

6 Q. When did you first see the Chicago  
 7 Police Officers at the scene?

8 A. Shortly after the subject was in  
 9 custody.

10 Q. Was that when Mr. Boyle was still on  
 11 the ground or was that when he stood up?

12 A. I do not recall. I don't recall  
 13 exactly.

14 Q. But you do remember Mr. Boyle being  
 15 given over to the Chicago Police Department?

16 A. I'm not sure exactly who transported  
 17 Mr. Boyle in. I wasn't there for that part of  
 18 the call so I don't want to go further into that  
 19 because I don't --

20 Q. What did you do once Mr. Boyle was  
 21 stood up and given over to either the Chicago  
 22 Police Department officers or some other  
 23 officers?

24 A. I cleared the scene of the call and

26

28

7 (Pages 25 to 28)

1 went back on patrol.  
 2 Q. Do you know when you actually cleared  
 3 the scene?  
 4 A. No.  
 5 Q. Was it before or was it after Mr. Boyle  
 6 was taken away from the scene?  
 7 A. I believe it was before.  
 8 Q. Did you have any conversations when  
 9 Mr. Boyle was taken into custody with Officer  
 10 Moore at that point?  
 11 A. No, not that I can recall.  
 12 Q. Did you have any conversations with  
 13 Officer Torres once Mr. Boyle was taken into  
 14 custody?  
 15 A. Not that I can recall.  
 16 Q. Did you have any conversations with  
 17 Officer Galarza?  
 18 A. Not that I can recall.  
 19 Q. And did you have any with Officer  
 20 Gillespie?  
 21 A. No. I -- I may have spoken to him  
 22 regarding his glasses because after the call we  
 23 were looking for his glasses but that was the  
 24 extent if there was any conversation.

1 A. No, I don't recall.  
 2 Q. Do you know if that was the same day or  
 3 you just don't recall?  
 4 A. I believe it was after the incident.  
 5 Probably the days following. I couldn't give  
 6 you specifics.  
 7 Q. What did they say to you when you asked  
 8 them if they were okay?  
 9 A. I don't recall the specifics of the  
 10 conversation.  
 11 Q. Have you had any other involvement with  
 12 this case outside of what you've spoken about  
 13 today?  
 14 A. There was one court appearance.  
 15 Q. Do you recall when you appeared in  
 16 court?  
 17 A. I believe it was in January of '09.  
 18 Q. And why were you in court in January of  
 19 2009?  
 20 A. I was subpoenaed for this case.  
 21 Q. Did you end up testifying?  
 22 A. No, I did not.  
 23 Q. Did you ever -- on October 18th, 2008,  
 24 did you ever tell dispatch that you were on the

29

31

1 Q. Do you recall what you said to Officer  
 2 Gillespie or what he said to you?  
 3 A. No.  
 4 Q. Now, during this altercation when you  
 5 saw Mr. Boyle on the ground and were attempting  
 6 to assist placing him into handcuffs, at any  
 7 point did you strike Mr. Boyle?  
 8 A. No.  
 9 Q. Did Mr. Boyle strike you?  
 10 A. No.  
 11 Q. Did you have any conversations with any  
 12 Chicago Police Officers who were at the scene  
 13 that night?  
 14 A. No.  
 15 Q. Did you ever talk to any of the four  
 16 University of Chicago Police Officers that we  
 17 have spoken of, Torres, Moore, Gillespie or  
 18 Galarza about what happened that morning since  
 19 October 18th, 2008?  
 20 A. Not specifically. I may have asked  
 21 them if they were okay, but I don't recall any  
 22 specific.  
 23 Q. Do you know when you asked them if they  
 24 were okay?

1 scene?  
 2 A. Yes, I believe I did. I may have let  
 3 dispatch know that I was, with the radio, on the  
 4 scene.  
 5 Q. Did you ever tell dispatch everybody  
 6 take a slow down?  
 7 A. I don't recall.  
 8 Q. Do you recall what you did tell  
 9 dispatch that night?  
 10 A. No.  
 11 Q. When did you learn that the suspect on  
 12 the scene was Charles Boyle?  
 13 A. I don't recall exactly.  
 14 Q. Did you fill out any paperwork in  
 15 conjunction with this case?  
 16 A. No.  
 17 Q. You didn't fill out a police report?  
 18 A. No, I did not.  
 19 Q. And you didn't fill out an injury  
 20 report?  
 21 A. No.  
 22 Q. Did you fill out a court report for  
 23 your appearance on January 20th, 2009?  
 24 A. I do not believe I filed a court

30

32

8 (Pages 29 to 32)

1 report.  
 2 MR. KSIAZEK: I will mark this as Exhibit  
 3 No. 10.  
 4 (Whereupon, PLAINTIFF'S  
 5 Deposition Exhibit No. 10 was  
 6 marked for identification.)

7 BY MR. KSIAZEK:

8 Q. What I've handed you and what's been  
 9 marked as Plaintiff's Exhibit 10, these are your  
 10 Answers to Interrogatories that you prepared  
 11 with your counsel.

12 Do you recognize this document?

13 A. Yes.

14 Q. You've read through this document?

15 A. Yes.

16 Q. By the way, what documents did you read  
 17 through in preparation for your deposition  
 18 today?

19 A. This is the only document, the  
 20 interrogatory.

21 Q. Okay. And if you look on the last  
 22 page, which has been marked at the bottom as  
 23 Page 10, that's your signature on the last page?

24 A. Yes.

1 A. Yes.

2 Q. If you look above in the first  
 3 paragraph, the second to last sentence in the  
 4 answer it says, Officer Moore injured his left  
 5 wrist and Officer Galarza injured his shoulder  
 6 in the process.

7 Do you know how Officer Moore injured  
 8 his left wrist?

9 A. No, I do not. I don't know the  
 10 specifics.

11 Q. Do you know how Officer Galarza injured  
 12 his shoulder?

13 A. No.

14 Q. And in the next sentence it states,  
 15 Officer Gillespie was kicked in the head by the  
 16 plaintiff breaking his glasses.

17 And you stated previously you didn't  
 18 see Officer Gillespie get kicked in the head?

19 A. He stated that he was -- that's why we  
 20 were looking for his glasses.

21 Q. Sure. But you never saw Officer  
 22 Gillespie get kicked in the head; right?

23 A. No, I didn't actually see that. No.

24 Q. Did you have any conversations with

33

35

1 Q. If you look on Page 3, under answer --  
 2 there's an answer to question two, which is on  
 3 the previous page, which is Page 2, please  
 4 identify all persons including but not limited  
 5 to police officers who witnessed or have  
 6 knowledge of the incident alleged in the  
 7 plaintiff's complaint. And if you turn back to  
 8 Page 3, in the second paragraph, which is in the  
 9 middle of the page --

10 A. Uh-huh.

11 Q. -- in the last sentence says Officer  
 12 Gerald Johnson and Lieutenant White were on the  
 13 scene at some point?

14 A. Yes.

15 Q. Did you ever see Officer Johnson or  
 16 Lieutenant White on the scene that night?

17 A. Yes.

18 Q. When did you see them on the scene?

19 A. I don't recall the exact point.

20 Q. Were they at the scene when you  
 21 arrived, when you first arrived?

22 A. No.

23 Q. And do you know if you saw them after  
 24 Mr. Boyle was placed into custody?

1 Officer Moore or Officer Torres about them  
 2 hearing a horn on October 18th, 2008 in relation  
 3 to the Chrysler?

4 A. No. Not other than after the report,  
 5 after the incident.

6 Q. Okay. Did you read the police report  
 7 after the incident?

8 A. Yeah, I believe I did review it for --  
 9 I saw a copy of it before we went to court.

10 Q. Was that the only time that you read  
 11 the police report?

12 A. That I can recall.

13 Q. So was that the first time that you  
 14 learned about the suspicious vehicle on October  
 15 18th, 2008?

16 A. I don't recall exactly what the  
 17 original dispatch was.

18 Q. Well, you said the dispatch was a 10-1?

19 A. No. But what I'm saying if there was  
 20 radio traffic leading up to that point. I don't  
 21 recall. I was responding to the 10-1.

22 Q. Well, when you arrived at the scene on  
 23 October 18th, 2008, did you -- what did you know  
 24 about what was taking place?

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9 (Pages 33 to 36)

1       A. Other than the fact that the 10-1 went  
 2 out, that's what I was responding to. That's  
 3 all I can recall at this point. I was  
 4 responding to the 10-1.

5       Q. Did you know anything about a  
 6 suspicious vehicle when you arrived on the  
 7 scene?

8       A. I don't recall.

9       Q. Did you know if there was a suspect  
 10 that was resisting arrest when you arrived on  
 11 the scene?

12      A. No. I was responding to the call, the  
 13 10-1. So I was responding to the officer's  
 14 request for assistance and that --

15      Q. So is your testimony that the dispatch  
 16 didn't say anything about a suspicious vehicle?

17      A. I don't recall exactly what was said  
 18 over dispatch.

19      Q. Okay. If you look on Page 6, and this  
 20 answer asks -- I'm sorry, this question asks for  
 21 your understanding of the policies and customs  
 22 that govern writing of any log report when an  
 23 individual is arrested and when the custody is  
 24 transferred to the City of Chicago Police

1       sentence in answer to question 9.  
 2            What plain clothes were you wearing on  
 3 that night?  
 4       A. I don't recall exactly what I was  
 5 wearing.

6       Q. But you weren't wearing your uniform?  
 7       A. Correct.

8       Q. Did you have any identification on you  
 9 like a badge or a --

10      A. Yes, I had -- I wore a badge holder.

11      Q. And were you wearing that around your  
 12 neck?

13      A. Yes.

14      Q. Have you ever been disciplined during  
 15 your employment at the University of Chicago  
 16 Police Department?

17      A. No.

18      Q. Have you ever been written up while  
 19 working for the University of Chicago Police  
 20 Department?

21      MR. PUISZIS: Objection. What do you mean  
 22 by written up?

23      BY MR. KSIAZEK:

24      Q. I mean, have you ever been -- I'm not

37

39

1       Department.

2       As a University of Chicago officer, you  
 3 can't arrest anyone; right?

4       A. Correct.

5       Q. Okay. So basically what University of  
 6 Chicago officers do is you will detain a  
 7 suspect; right?

8       A. Correct.

9       Q. Then you will wait for the Chicago  
 10 Police Officers to arrive?

11      A. Yes.

12      Q. And the Chicago police officer will  
 13 actually arrest?

14      A. Yes, they do the arrest report.

15      Q. And the University of Chicago officers  
 16 they also write their own reports; right?

17      A. Yes, they do an in-house report.

18      Q. And they also patrol, the University of  
 19 Chicago officers also patrol certain areas?

20      A. Yes, in our designated areas of patrol.

21      Q. So if you look on Page 7 of this  
 22 document, under question 9, it states I was  
 23 working an investigation in plain clothes on  
 24 behalf of the University. That's the second

1       sure if there's anything -- if there's a  
 2 difference between write up or discipline, but  
 3 have you ever been written up for any reason?

4       A. I have not been disciplined.

5       Q. Okay. Have you ever been -- have you  
 6 ever had any investigations or any complaints  
 7 against you?

8       A. I was subject of an investigation.

9       Q. What was -- when did this investigation  
 10 take place?

11      MR. PUISZIS: Let me object because it's  
 12 irrelevant, but you can go ahead and answer the  
 13 question.

14      THE WITNESS: I believe it was in July of  
 15 2008.

16      BY MR. KSIAZEK:

17      Q. And what happened to cause this  
 18 investigation to take place?

19      A. The University officers responded to a  
 20 call along with Chicago Police, and in the  
 21 Chicago Police report it stated that OC spray  
 22 was used by a University of Chicago police  
 23 officer.

24      So the responding University of Chicago

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10 (Pages 37 to 40)

1 Police Officers had an investigation opened on  
 2 them by the Department to verify that this was  
 3 not the case. We do not carry OC spray. It's  
 4 not issued to us, and we're not authorized to  
 5 use it. So it was unfounded.

6 Q. Just what is OC spray?

7 A. Oleoresin Capsicum. It's similar to a  
 8 pepper spray. We are not authorized to carry or  
 9 deploy it.

10 Q. And you were working – in July of  
 11 2008, you were working on this surveillance  
 12 unit?

13 A. Yes.

14 Q. That was Unit 152; right?

15 A. Yes.

16 Q. Have you ever been sued in your  
 17 capacity as University of Chicago police officer  
 18 before?

19 A. No.

20 Q. Outside of this lawsuit, obviously  
 21 outside of this lawsuit.

22 Did you have a computer in your vehicle  
 23 on October 18th, 2008?

24 A. No.

1 one of the attorneys representing the City of  
 2 Chicago Police Officers.

3 I just want to step back to the  
 4 incident to understand who you saw there and  
 5 when you noticed CP on the scene.

6 So you said that you noticed the  
 7 Chicago Police Officers after the subject was in  
 8 custody?

9 A. Yes, after the cuffs had been placed on  
 10 him.

11 Q. Okay. But you didn't recall if  
 12 Mr. Boyle was still on the ground or if he was  
 13 standing up?

14 A. Correct.

15 Q. Do you recall about how many Chicago  
 16 Police Officers were on the scene?

17 A. I don't recall exactly. I know it was  
 18 -- there was at least one patrol unit, and I  
 19 believe a sergeant responded. I don't have the  
 20 specific beats or names.

21 Q. Okay. That was going to be my next  
 22 question. You don't know any of the CP officers  
 23 or the sergeant?

24 A. I don't recall.

41

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1 Q. So when you would get some information  
 2 – or when you would request information about a  
 3 potential suspect, you would have to relay  
 4 information to dispatch; right?

5 A. Yes.

6 Q. And dispatch would tell you, for  
 7 instance, if you had a license plate number,  
 8 they would tell you who the owner of the car  
 9 was?

10 A. Yes.

11 Q. Is there anything else that you wish to  
 12 state or can think of in relation to this  
 13 incident on October 18th, 2008?

14 A. No.

15 Q. Are there any other conversations that  
 16 you had on October 18th, 2008 that we haven't  
 17 spoken about today with anyone?

18 A. Not that I can recall.

19 MR. KSIAZEK: I don't have any further  
 20 questions.

21 MS. GIBBONS: I just have a few questions.

22 EXAMINATION

23 BY MS. GIBBONS:

24 Q. Hi, Officer, I'm Helen Gibbons. I'm

1 Q. Do you recall – or do you know or have  
 2 you come to know any of their names?

3 A. I believe it was -- yeah, I can't – I  
 4 can't recall.

5 Q. Now, after Mr. Boyle was in custody,  
 6 did he – when the handcuffs were on him, did he  
 7 continue to struggle and fight against the  
 8 University of Chicago Police Officers?

9 A. Yes. After the handcuffs were placed  
 10 on him, I believe he was still struggling.

11 Q. Do you recall for about how long?

12 A. No, I do not.

13 Q. And do you recall if the Chicago Police  
 14 Officers were on the scene when Mr. Boyle was  
 15 still struggling?

16 A. I don't recall.

17 Q. And do you recall who walked Mr. Boyle  
 18 – you know what, I'm sorry you already  
 19 testified to that.

20 MS. GIBBONS: Those are all the questions I  
 21 have.

22 EXAMINATION

23 BY MR. PUJSZIS:

24 Q. The investigation that you talked

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11 (Pages 41 to 44)

1 about, that was – was there a citizen who filed  
 2 a complaint against you?  
 3 A. No, it was not a citizen complaint. It  
 4 was internal generated by our former deputy  
 5 chief.  
 6 Q. And that was to simply investigate  
 7 whether you or any other University of Chicago  
 8 officer who responded to this particular  
 9 incident had or used pepper spray?  
 10 A. Yes.  
 11 Q. And what was the result of that  
 12 investigation?  
 13 A. It was unfounded.  
 14 Q. So neither you nor any other University  
 15 of Chicago officer carried pepper spray or used  
 16 pepper spray in connection with that incident;  
 17 correct?  
 18 A. Correct.  
 19 Q. Now, you mentioned University of  
 20 Chicago is not permitted to use OC or pepper  
 21 spray?  
 22 A. Right.  
 23 Q. Does the University of Chicago allow  
 24 its officers to carry the big long cal

1 its station in October of 2008 have a lockup  
 2 facility?  
 3 A. No.  
 4 Q. Did it have any capacity to inventory  
 5 property or anything like that?  
 6 A. No.  
 7 Q. Are you allowed now or then to make  
 8 traffic offenses or arrests for traffic  
 9 offenses?  
 10 A. No.  
 11 Q. Now or then are you allowed to take  
 12 someone into custody back to the University of  
 13 Chicago station?  
 14 A. No.  
 15 Q. If you see someone commit a crime, what  
 16 are you permitted to do?  
 17 A. To place them into custody and detain  
 18 them for -- notify Chicago Police Department and  
 19 turn them over to the City of Chicago Police.  
 20 Q. And then who prepares the police  
 21 reports and go to court, and who fills out the  
 22 criminal complaints?  
 23 A. The Chicago Police Department.  
 24 Q. Does the University of Chicago officers

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1 flashlights?  
 2 A. No.  
 3 Q. Did you see anyone from the University  
 4 of Chicago carrying any big cal flashlights that  
 5 night?  
 6 A. No.  
 7 Q. Are you permitted to carry any type of  
 8 flashlight?  
 9 A. Yes, the --  
 10 Q. Can you describe the type of flashlight  
 11 you're allowed to carry?  
 12 A. Yes, the small -- they refer to it as  
 13 the stinger style flashlights, the poli -- the  
 14 plastic.  
 15 Q. How big are they?  
 16 A. They're approximately eight -- I  
 17 believe about eight inches in length.  
 18 Q. So maybe the size of two fists?  
 19 A. Yes, approximately.  
 20 Q. Not the 16 or 20 inch flashlights that  
 21 you might see that you can purchase in a  
 22 commercial establishment?  
 23 A. Correct.  
 24 Q. Now, does the University of Chicago at

1 have any authority to do that?  
 2 A. No.  
 3 Q. Would it be fair to say that you have  
 4 not been provided full police powers as a  
 5 University of Chicago officer?  
 6 MR. KSIAZEK: Objection, calls for a legal  
 7 conclusion. You can answer.  
 8 MR. PUISZIS: Go ahead.  
 9 THE WITNESS: Correct. Yes.  
 10 BY MR. PUISZIS:  
 11 Q. The areas that you patrol, are they  
 12 also patrolled by the City of Chicago police?  
 13 A. Yes.  
 14 Q. Are there any areas that you patrol  
 15 that the City of Chicago does not patrol?  
 16 A. No.  
 17 Q. Have you been delegated an exclusive  
 18 public function to patrol any areas of the  
 19 University of Chicago campus or any part of the  
 20 City of Chicago that the Chicago Police are not  
 21 authorized to patrol?  
 22 A. No.  
 23 Q. Have you been delegated any exclusive  
 24 public authority to do anything that the City of

46

48

12 (Pages 45 to 48)

1 Chicago police officers are not permitted to do?  
 2 A. No.  
 3 Q. And there are certain things you cannot  
 4 do; is that correct?  
 5 A. Correct.  
 6 Q. Do you recall if the vehicle – the  
 7 silver Chrysler that you were talking about  
 8 earlier if it was facing eastbound or westbound  
 9 or do you recall one way or the other?  
 10 A. I believe there were – there were two  
 11 silver Chryslers, the subject's vehicle and I  
 12 believe that night I may have been driving a  
 13 silver vehicle also. So the subject Boyle's  
 14 vehicle was facing eastbound and my vehicle was  
 15 facing westbound.  
 16 Q. Was Mr. Boyle allowing himself to be  
 17 handcuffed?  
 18 A. No.  
 19 Q. Is it lawful to resist any arrest  
 20 whatsoever?  
 21 A. No.  
 22 Q. And is it proper to put someone in  
 23 handcuffs to protect an officer's safety?  
 24 A. Yes.

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1 IN THE UNITED STATES DISTRICT COURT  
 2 NORTHERN DISTRICT OF ILLINOIS  
 3 EASTERN DIVISION  
 4 CHARLES BOYLE, )  
 5 Plaintiff, )  
 6 -vs- ) No. 09 C 1080  
 7 UNIVERSITY OF CHICAGO )  
 8 POLICE OFFICER LARRY )  
 9 TORRES, et al., )  
 10 Defendants. )  
 11 I, MICHAEL KWIATKOWSKI, being first duly  
 12 sworn, on oath say that I am the deponent in the  
 13 aforesaid deposition taken on the 10th day of  
 14 November, 2009; that I have read the foregoing  
 15 transcript of my deposition, consisting of pages  
 16 6 through 50 inclusive, and affix my signature  
 17 to same.  
 18  
 19 MICHAEL KWIATKOWSKI  
 20 Subscribed and sworn to  
 21 before me this \_\_\_\_\_ day  
 22 of \_\_\_\_\_, 2010.  
 23  
 24 Notary Public

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1 MR. PUISZIS: I don't have anything else.  
 2 FURTHER EXAMINATION  
 3 BY MR. KSIAZEK:  
 4 Q. Okay. Just where was your vehicle  
 5 parked in relation to you said the subject's  
 6 vehicle, the silver Chrysler?  
 7 A. I don't recall the exact orientation  
 8 where they were. I know my vehicle was facing  
 9 westbound.  
 10 Q. Do you know how far apart from the  
 11 silver Chrysler your vehicle was parked?  
 12 A. No, I do not recall.  
 13 MR. KSIAZEK: Nothing further.  
 14 MR. PUISZIS: No further questions.  
 15 MS. GIBBONS: I have nothing further.  
 16 MR. KSIAZEK: We'll reserve.  
 17 (Whereupon, the deposition  
 18 concluded at 11:16 o'clock  
 19 a.m.)  
 20  
 21 (FURTHER DEONENT SAITH NAUGHT.)  
 22  
 23  
 24

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1 STATE OF ILLINOIS )  
 2 ) SS:  
 3 COUNTY OF C O O K )  
 4 I, ATHANASIA MOURGELAS, a notary public  
 5 within and for the County of Cook County and  
 6 State of Illinois, do hereby certify that  
 7 heretofore, to-wit, on the 10th day of November  
 8 2009, personally appeared before me, at 222  
 9 North LaSalle Street, Suite 300, Chicago,  
 10 Illinois, MICHAEL KWIATKOWSKI, in a cause now  
 11 pending and undetermined in the Circuit Court of  
 12 Cook County, Illinois, wherein CHARLES BOYLE, is  
 13 the Plaintiff, and UNIVERSITY OF CHICAGO POLICE  
 14 OFFICER, et al., are the Defendants.  
 15 I further certify that the said MICHAEL  
 16 KWIATKOWSKI was first duly sworn to testify the  
 17 truth, the whole truth and nothing but the truth  
 18 in the cause aforesaid; that the testimony then  
 19 given by said witness was reported  
 20 stenographically by me in the presence of the  
 21 said witness, and afterwards reduced to  
 22 typewriting by Computer-Aided Transcription, and  
 23 the foregoing is a true and correct transcript  
 24 of the testimony so given by said witness as

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13 (Pages 49 to 52)

1 aforesaid.

2 I further certify that the signature to  
3 the foregoing deposition was reserved by counsel  
4 for the respective parties.

5 I further certify that the taking of this  
6 deposition was pursuant to notice and that there  
7 were present at the deposition the attorneys  
8 hereinbefore mentioned.

9 I further certify that I am not counsel  
10 for nor in any way related to the parties to  
11 this suit, nor am I in any way interested in the  
12 outcome thereof.

13 IN TESTIMONY WHEREOF: I have hereunto  
14 set my hand and affixed my notarial seal this  
15 6th day of January, 2010.

16

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21   
NOTARY PUBLIC, COOK COUNTY, ILLINOIS  
22 LIC. NO. 84-4329

23

24

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1 McCorkle Court Reporters, Inc.  
2 200 N. LaSalle Street Suite 300  
3 Chicago, Illinois 60601-1014

4 January 6th, 2010  
5 Mr. Steve M. Pulszis  
6 Hinshaw & Culbertson  
7 222 North LaSalle Street

8 IN RE: Boyle v. University of Chicago, et al.  
9 COURT NUMBER: 09 C 1080  
10 DATE TAKEN: November 10, 2009  
11 DEPONENT: Michael Kwiatkowski  
12 Dear Mr. Pulszis:  
13 Enclosed is the deposition transcript for the  
14 aforementioned deponent in the above-entitled  
15 cause. Also enclosed are additional signature  
16 pages, if applicable, and errata sheets.

17 Per your agreement to secure signature, please  
18 submit the transcript to the deponent for review  
19 and signature. All changes or corrections must  
20 be made on the errata sheets, not on the  
21 transcript itself. All errata sheets should be  
22 signed and all signature pages need to be signed  
23 and notarized.

24 After the deponent has completed the above,  
please return all signature pages and errata  
sheets to me at the above address, and I will  
handle distribution to the respective parties.  
If you have any questions, please call me at the  
phone number below.

25 Sincerely,  
26 Margaret Setina Athanasia Mounigelas  
27 Signature Department Court Reporter  
28 (312) 263-0052  
29 cc: Mr. Ksiazek, Ms. Gibbons.

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14 (Pages 53 to 54)

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**EXHIBITS**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CHARLES BOYLE, )  
Plaintiff, )  
v. )  
UNIVERSITY OF CHICAGO POLICE )  
OFFICER LARRY TORRES, et al., )  
Defendants. )  
No. 09 C 1080



**DEFENDANT KWIATKOWSKI'S ANSWERS TO PLAINTIFF'S INTERROGATORIES**

Defendant, UNIVERSITY OF CHICAGO POLICE OFFICER KWIATKOWSKI ("Kwiatkowski"), by and through his attorneys, Hinshaw & Culbertson LLP, and for his answers to Plaintiff's Interrogatories, states as follows:

**PRELIMINARY STATEMENT**

Defendant's responses to plaintiff's interrogatories are made solely for the purpose of this litigation. Any response made and any information provided by the defendant through these answers are subject to objections as to the competency, relevancy, materiality, propriety, or admissibility of the information sought in plaintiff's interrogatories and defendant's responses thereto. Any information provided through any answer or response is further subject to any and all other objections that would require the exclusion of any information provided herein if that information is sought to be elicited at any further proceeding including the trial of plaintiff's claims, and/or if the information identified herein is asked of or disclosed by a witness testifying at any further proceeding. All of the aforementioned objections are hereby expressly reserved and may be interposed at a later date.

Any answers or responses herein are based on present knowledge, information and belief, and are made without prejudice to the objections set forth herein. Defendant specifically reserves the right to amend and/or supplement his responses at any time to introduce information

not identified herein if it should it become known at any time through further investigation, and defendant obtains additional or different information from that provided herein. Defendant expressly reserves the right to revise, correct, add to or clarify any answer, response and/or objections set forth below. Defendant further specifically reserves the right to rely upon such facts or documents and persons having knowledge of such facts or documents, as may be derived through future discovery or through his continuing investigation in this matter, or as may be adduced at trial.

Any answer or response set forth below is based on information presently available to defendant, and except for explicit facts expressly set forth herein, no incidental or implied admissions are intended thereby. The fact that defendant has answered, responded or objected to any paragraph of plaintiff's interrogatories or any part thereof, is not intended to be and should not be construed to be an admission by the defendant that he accepts or admits the existence of any facts set forth or assumed by said discovery requests, nor should it be construed as a waiver by the defendant of all or any part of objection to any request for production made by plaintiff. The fact that defendant has answered, responded to, or objected to any paragraph of plaintiff's interrogatories should not be taken as an admission that such answer, response or objection constitutes admissible evidence.

#### ANSWERS TO INTERROGATORIES

1. Please identify (including title) all persons who assisted in the responses to these interrogatories.

**ANSWER:** Michael Kwiatkowski. My attorney, Steven Puiszis, consulted with me in preparing these answers.

2. Please identify all persons, including but not limited to police officers, who witnessed or have knowledge of the incident alleged in the Plaintiff's Complaint.

ANSWER: Objection, the defendant objects to Interrogatory No. 2 because it is vague and ambiguous it that it refers to "the incident alleged in plaintiff's Complaint." Plaintiff's claims include allegations concerning his arrest and the purported use of force against him as well as a state law claim of malicious prosecution. Therefore, the term "incident" as used in Interrogatory No. 2 is vague and ambiguous. Subject to that objection and without waiving same, Officer Clarence Moore and Larry Torres were the original two officers from the University of Chicago on the scene. After the University of Chicago dispatcher called for a 10-1, or officers in need of assistance, other University of Chicago officers responded to the scene including Oscar Galarza, Michael Kwiatkowski, and Arthur Gillespie. Galarza, Kwiatkowski and Gillespie assisted Torres and Moore at some point in getting the plaintiff to the ground and then handcuffing him. Officer Moore injured his left wrist and Officer Galarza injured his shoulder in the process. Officer Gillespie was kicked in the head by the plaintiff, breaking his glasses.

Other officers from the University of Chicago also responded and would have seen the plaintiff either on the ground or in handcuffs or being escorted to a City of Chicago squad car for transportation. Officer Gerald Johnson and a Lieutenant White from the University of Chicago Police Department were on the scene at some point.

Officers from the City of Chicago would have also responded to the scene in connection with a call for assistance and would have transported Charles Boyle to the local police station for processing and would have prepared his paperwork. They would have included Officers Darling and Martin. Other offices from the City of Chicago may also have responded as well, I don't know their names. I believe there were other individuals who were at the scene who may or may not have witnessed some or all of what transpired, including an Ashley Glover, Kenneth Roberson and Steven Sinclair. The defendant's investigation continues.

3. Please identify all persons, including but not limited to police officers, who are believed by defendant to have knowledge supporting Defendant's denials of Plaintiff's allegations. Briefly summarize what knowledge Defendant believes each person may possess.

**ANSWER:** Objection, defendant objects to this Interrogatory on the grounds that it seeks attorney work-product and is vague and ambiguous in that it seeks parties to identify anyone believed "to have knowledge supporting the defendant" and also asks for a summary of "what knowledge" this defendant "believes each person may possess." That information is more proper the subject of a deposition and to require the provision of such a summary is overbroad, harassing and unduly burdensome. Subject to those objections and without waiving same, see those individuals listed in Interrogatory No. 2 and defendants who were identified in the University of Chicago defendants' Rule 26 Disclosures. The University of Chicago officers would have knowledge of their activities at the scene of the occurrence and subsequent thereto.

4. Identify all police officers who were present at or near 1435 East 53rd Street, Chicago, Illinois 60615 at the time of the incident alleged in the complaint, and for each such officer indicate the following:

- a. Why he/she was at that location;
- b. Whether he/she had any physical contact with Plaintiff;
- c. Whether he/she participated in the arrest of Plaintiff;
- d. Whether he/she participated in the search of Plaintiff;
- e. Whether he/she had any participation in the bringing of criminal charges against Plaintiff.

**ANSWER:** Objection. Defendant objects to this Interrogatory as being vague and ambiguous in that it refers to the incident alleged in the Complaint and plaintiff's claims against the defendant include assertions relating to his arrest and to the purported use of force against him as well as a state law claim of malicious prosecution. Subparagraph (e) is vague and ambiguous in that you fail to define what you mean by "any participation in the bringing of the

criminal charges." Subject to those objects and without waiving same, see my answer to Interrogatory No. 2.

Officers Moore and Torres had just stepped out of a Dunkin Donuts after getting coffee when they observed a vehicle drive past them with its horn continuously blowing and then observed the vehicle abruptly swerve to the curb and bump it. They initially investigated what was happening. The other officers from the University of Chicago responded to a dispatch indicating that Officers Moore and Torres needed assistance. The University of Chicago officers Moore and Torres initially attempted to handcuff the plaintiff who refused to allow himself to be handcuffed and the other officers including Aguilar, Kwiatkowski and Gillespie assisted in attempting to get the plaintiff onto the ground and handcuffed.

Officers Moore and Torres would have explained what happened at the scene of the incident to City of Chicago officers who would then prepare the arrest paperwork and any Complaints would have been signed by either Officer Moore or Officer Torres.

5. If there were any investigations, including, but not limited to, an internal affairs, or O.P.S., investigation, relating to the incident alleged in Plaintiffs' Complaint, please state who conducted and/or took part in it, and state and describe its findings.

ANSWER: I do not personally know of any such investigation. However, my attorneys are aware that the plaintiff, using an alias, Charles Boyle made a complaint apparently under the name Charles D'Angelo.

Sergeant Kevin Murray was principally involved in the investigation of that complaint. Sergeant Chisem of the University of Chicago would also have knowledge concerning plaintiff's complaint using the name of Charles D'Angelo, and Investigator Salvatore of the Independent Police Review may have knowledge of a conversation with the plaintiff in which he refused to tell him about the incident and said "he had another way he was going to deal with this" or words to that effect.

Ultimately, the complaints filed by Plaintiff under the name of Charles D'Angelo were "unfounded" because of his refusal to participate in the investigation. Sergeant Murray's efforts to speak with the plaintiff are outlined in letters and in transcripts of phone calls that he made, copies of which were produced by the defendants and Bates stamped numbers U-C0001-0039.

6. State whether you sustained any physical injury during your interaction with plaintiff on or about October 18, 2008. If yes, describe your injury. Additionally, if you received any medical treatment of your injury state the date(s) of your treatment and identify the medical provider(s).

**ANSWER:** No I was not injured. I understand that Officer Gillespie was kicked in the head during the incident and his glasses were broken. I also understand that Officer Galarza injured his shoulder and Officer Moore his wrist, but I do not know what treatment they received.

7. Please state and describe your understanding of the policies and customs which govern the writing of any kind of log and/or report including, but not limited to, complaint report, arrest report, search report, property report, supplemental report, or otherwise, (1) when an individual is arrested for interfering with a public officer — resisting/obstructing/disarming an officer and (2) when the custody of an arrestee is transferred to the City of Chicago Police Department. Included in this response, must be when a log, report, or other document is to be written, on what type of form it is to be written, and what facts are to be put in such log, reports, or other document.

**ANSWER:** Objection. This interrogatory is vague and ambiguous in that it asks for "policies or customs" governing the writing of reports, logs, etc. Over that objection and without waiving same, my understanding is that any report I write should be an accurate summary of an event as best as I can recall it. Because it is only a summary, it cannot include all of the facts and may not incorporate facts that others deem important when reviewing an incident well after the fact. I am not aware of anything specific as it relates to interfering with a police officer or resisting or obstructing a police officer other than may report should be an accurate summary. University of Chicago employees are permitted to detain individuals who commit crimes and we turn any such person over to the Chicago Police who will then transport that person to a local

police station and process that person, including taking booking photos, filling out arrest reports, filing criminal complaints and seeking approval by the State's Attorney working felony review of felony charges. While University of Chicago employees write out our own reports, we do not prepare criminal complaints and do not process an arrestee during the booking process.

8. Please state how long and in what capacity you have been employed by the University of Chicago Police Department. Your response should include a brief description of your change in assignments and/or rank if any, and when those changes occurred. Your response should also include whether you were concurrently employed by the City of Chicago as a police officer at any time during your employment with the University of Chicago Police Department.

**ANSWER:** On the date of the incident involving Charles Boyle, I had been employed by the University of Chicago for approximately five years and four months. During this timeframe there has been no change in rank and at no time while employed with the University of Chicago have I been employed concurrently with the City of Chicago as a police officer.

9. Please describe your assignment with the University of Chicago Police Department on October 18, 2008. Your response should include the actual time you began and ended your duties.

**ANSWER:** On October 18, 2008, I was working as an officer for the University of Chicago during its midnight shift. I was working an investigation in plain clothes on behalf of the University.

10. State the case number, caption, and jurisdiction of all civil cases in which you were named a defendant during the course of your employment with the University of Chicago Police Department and/or the City of Chicago Police Department.

**ANSWER:** Defendant objects to this Interrogatory in that it is overbroad, unduly burdensome, harassing, and not designed to lead to the discovery of relevant or admissible information in that it seeks information about all civil cases in which I was named a defendant irrespective of whether a lawsuit was filed against me in a capacity other than as police officer. Additionally, the Interrogatory is overbroad, unduly burdensome, and not designed to lead to the discovery of relevant information since it does not seek information about other lawsuits that are

substantially similar in nature. Subject to those objections and without waiving same, I have never worked for the Chicago Police Department and I have never been previously sued in my capacity as a University of Chicago Police officer.

11. Identify all complaints (and the names of all complainants), including but not limited to, complaints of false arrests, excessive use of force, unlawful search and/or seizure, perjury, malicious prosecution, or general misconduct which have been lodged against you during the course of your career with the University of Chicago Police Department. Your response should list each number, such as complaint register number, that has been assigned to each complaint, indicate when each investigation was concluded, and state the nature of punishment, if any, received by the defendant as a result of the complaint.

**ANSWER:** Defendant objects to this Interrogatory in that it is overbroad, unduly burdensome, harassing, and not designed to lead to the discovery of relevant or admissible information in that it seeks information about all civil cases in which I was named a defendant irrespective of whether a lawsuit was filed against me in a capacity other than as police officer. Additionally, the Interrogatory is overbroad, unduly burdensome, and not designed to lead to the discovery of relevant information since it does not seek information about other lawsuits that are substantially similar in nature. Subject to those objections and without waiving same, there have been no sustained complaints against me during my career as a University of Chicago police office.

12. Identify all documents, notes, memoranda, or other writings, including internal investigations statements, police reports, and inter-agency memos which you wrote which relate or refer to the Plaintiff and/or the incident alleged in the Plaintiffs complaint.

**ANSWER:** Any report, memo or other document which I prepared or wrote would contain my signature at some place on the document. My attorney has informed me that he has produced documents to your attention Bates stamped numbers U/C001-0079. Please see those documents for any that bear my signature.

13. State whether you gave any statement, oral, written or tape recorded, signed or unsigned to an investigator (internal or otherwise) in connection with the incident alleged in the complaint. If yes, state the current location of each original statement.

ANSWER: I did not make any such statement, other than speaking to my attorney and my conversations with my attorney which are privileged from disclosure.

14. State the name and current or last known address of each and every individual you may call as a witness in the trial of this matter.

ANSWER: Defendant objects to Interrogatory No. 14 on the basis that it is premature and seeks work product. Subject to and without waiving same objection, this defendant states this is unknown to me at this time.

15. State whether you ever testified in any court proceeding relating to your interactions with plaintiff on October 18, 2008. If yes, state the date, courtroom, nature of court proceeding, and case number(s) associated with said testimony.

ANSWER: No.

16. State whether you performed any duties of any kind as a University of Chicago Police Officer on January 20, 2009 and/or December 6, 2008. If yes, state the hours you performed your duties, and the location(s) where these duties were performed.

ANSWER: Defendant objects to Interrogatory No. 16 in that he was never subpoenaed to Court and, therefore, his duties as an Officer for the University of Chicago on January 20, 2009 and/or December 6, 2008 are irrelevant and immaterial. Defendant also objects to this Interrogatory as overbroad and harassing and seeks information not reasonably calculated to lead to the discovery of admissible evidence.

17. State each and every fact that explains each affirmative defense set forth in your answer to the complaint. Identify all witnesses who support each affirmative defense, if any, and state the subject matter of each witness' knowledge.

ANSWER: Objection. This Interrogatory calls for attorney work product. Defendant further objects to this Interrogatory as overbroad, and unduly burdensome and because it seeks information outside of my personal knowledge and calls for a legal conclusion. Defendant further objects that it is unduly burdensome and harassing. Subject to those objections and without waiving same, see the information disclosed in the University of Chicago Defendant's Rule 26(a)(1) Disclosures as well as information disclosed in connection with the University of

Chicago Defendants' Response to Plaintiff's Production Request and these Answers to Interrogatories.

By: Michael K  
Officer Michael Kwiatkowski

SUBSCRIBED AND SWORN TO  
before me this 21st day of July, 2009.

Jody A. Donne  
Notary Public

